



The People's Lawyer®

"I May Not Handle Every Injury Claim In Northeast Florida... But I Sure Am Gonna Try!"™

News From Accident Lawyer John Fagan

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Car & Motorcycle Accidents | Dog Bite | Nursing Home Neglect | Slip & Fall | Workers' Comp



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I thought you might want to know:

Bars & Restaurants Can Be Held Responsible

Many states have "dram shop" laws that hold bars, clubs or restaurants responsible for harm that occurs when they over-serve alcohol to customers.

What you may not be aware of is that dram shop laws can also cover situations where customers are over-served and engage in drunken, violent attacks on other patrons, employees or even random bystanders.

This happened recently in Michigan. A woman went out partying in downtown Grand Rapids and started the night at a now-closed bar called McFadden's. She apparently downed five strong alcoholic drinks within 90 minutes. She then left for another bar before returning to McFadden's. After using the restroom, she stepped outside and sucker-punched a woman who she mistakenly believed had been dancing and flirting with her husband. The victim broke her nose and suffered a brain injury when her head hit the pavement.

The victim sued the attacker, but also sued McFadden's and the second bar where the attacker had been drinking. The second bar settled, but McFadden's fought the case, arguing that the situation wasn't its fault because it wasn't the last place to serve the woman (there's a "rebuttable presumption" under Michigan law that an establishment isn't responsible if it wasn't the last place to serve the wrongdoer). But McFadden's had very little testimony to counter evidence that the attacker was already visibly intoxicated when they were still serving her, and a jury found the bar at fault, awarding substantial damages to the victim.



Another example comes from Minnesota. In that case, two men who had apparently already been drinking beforehand met up at a bar in Minneapolis. While the bartender on duty that night claims the two men each only had a beer or two, surveillance video showed them drinking shots after they'd already been there for a couple of hours and were getting surly and unruly.

The two men ultimately caused a major disturbance, with one of them, Nicholas Anderson, throwing a punch at the manager, jumping on his back and putting him in a headlock.

Food-runner Maxwell Henson came to the manager's aid. As he and the manager tried to escort Anderson out, one of them tripped, sending all three to the ground. Henson struck his head on the pavement and suffered a fatal injury.

When his family sought to hold the bar accountable under the state dram shop law, a trial judge dismissed the case, saying Anderson's intoxication didn't directly cause Henson's death.

But a state appeals court reversed, finding that the bar's overserving of Anderson "amplified the risk" that Henson assumed by coming to his manager's aid. Now Henson's family can bring their case in front of a jury.

Accident Insider

Nursing Home Neglect

Elder neglect, or nursing home negligence, most commonly occurs when a resident does not receive proper medical, physical, or emotional attention.

As a result, neglect can pose serious risk of harm to victims. In certain cases, neglect may escalate to physical or emotional abuse.

When visiting with the nursing home resident, you should watch for signs of neglect, emotional distress, or changes in health.

Effective communication between you and staff can play a critical role in elder patient care.



Does "Recreational Immunity" Protect A Contractor From A Lawsuit?

In many states, landowners and their "agents" can't be sued for deaths or injuries on property they've opened up to the public for recreational activities like swimming, hiking, fishing, camping or horse-back riding. This is what's known as "recreational immunity" and it only applies if the landowners open up the property free of charge.



The definition of an "agent" is often pretty unclear, but a recent Wisconsin case gives a little bit of guidance.

In that case, a landowner hired a contractor to trim trees along a lakefront path it had opened to the public. A member of the tree-trimming crew cut a large branch from a tree that landed on Jane Westmas, who was walking on the path with her son. She was fatally injured. Her husband, who was also her estate administrator, sued the tree company, claiming its carelessness caused her death and caused emotional distress to their son, who saw his mother die.

The contractor argued in court that because it was an "agent" of the property owner, the Wisconsin recreational immunity law protected it from responsibility.

A lower court judge agreed and dismissed the case. But the Wisconsin Supreme Court reversed, finding that because the property owner didn't directly control the contractor's means and methods, the contractor didn't count as an "agent" who was protected by recreational immunity.

Of course, these laws work differently from state to state. If you want to learn more, give me a call. (844) 564-6411

Jen's Summer Pasta Salad

Ingredients

- 1 box 16oz Penne Pasta
- 1 Bx Cherry/Grape Tomatoes (halved)
- ½ Green Pepper (finely chopped)
- ½ Onion (finely chopped)
- ½ cup Kalamata Olives (halved)
- ½ cup Feta Cheese (crumbled)
- ½ cup of Marie's Balsamic Vinaigrette
- ¼ cup Mayo

Instructions

- Cook pasta/rinse/drain and let in sit in the fridge to cool.
- Chop all veggies and mix together.
- Mix dressing and Mayo together.
- When pasta has cooled, mix all ingredients together and serve.
- Enjoy!

If prepared ahead of time and kept in the fridge, the pasta will absorb the liquid and it may seem a little dry. You may want to add another ¼ cup of Balsamic Vinaigrette and toss just before serving.

